SB Civil Writ Petition No.8824/2006

Kailash & ors Vs Board of Revenue & ors

21.11.2006

Hon'ble Mr Justice Ashok Parihar

Mr RK Goyal – for petitioners

BY THE COURT:

Admittedly, the land in dispute belong to one Kana, who alleged to have executed a will in favour of one of his daughters Dankha to the extent that during life time of Dankha she may enjoy the fruits of the property, however, after death of Dankha, the property will revert back to the family. After death of above Kana, Dankha also got a probate in her name from a competent court. The will and probate were never challenged by any person. Subsequently, the land was sold by one Hari Singh, alleged to be the adopted son of Kana to the respondent No.4. In view of the will and probate issued in favour of Dankha, she filed a suit for ejectment under section 183 of the Rajasthan Tenancy Act before the trial court. The suit was dismissed by the trial court vide order dated 28.7.1989. However, while allowing the appeal, the Revenue Appellate Authority, vide order dated 28.6.1997, decreed the suit in favour of Dankha and other legal heirs of deceased Kana. The above order passed by the RAA further came to be affirmed by the Board of Revenue vide order dated 6.10.2006.

Having carefully gone through the material on record, since the basic facts as narrated above have not been disputed so far, due consideration has been made and discretion used by both the Revenue Appellate Authority as also the Board of Revenue, in the facts and circumstances, no further interference is called for by this court, more so, when the petitioners are only second purchaser of the land in dispute. The writ petition is dismissed accordingly as having no merit.

(Ashok Parihar) J.

bnsharma